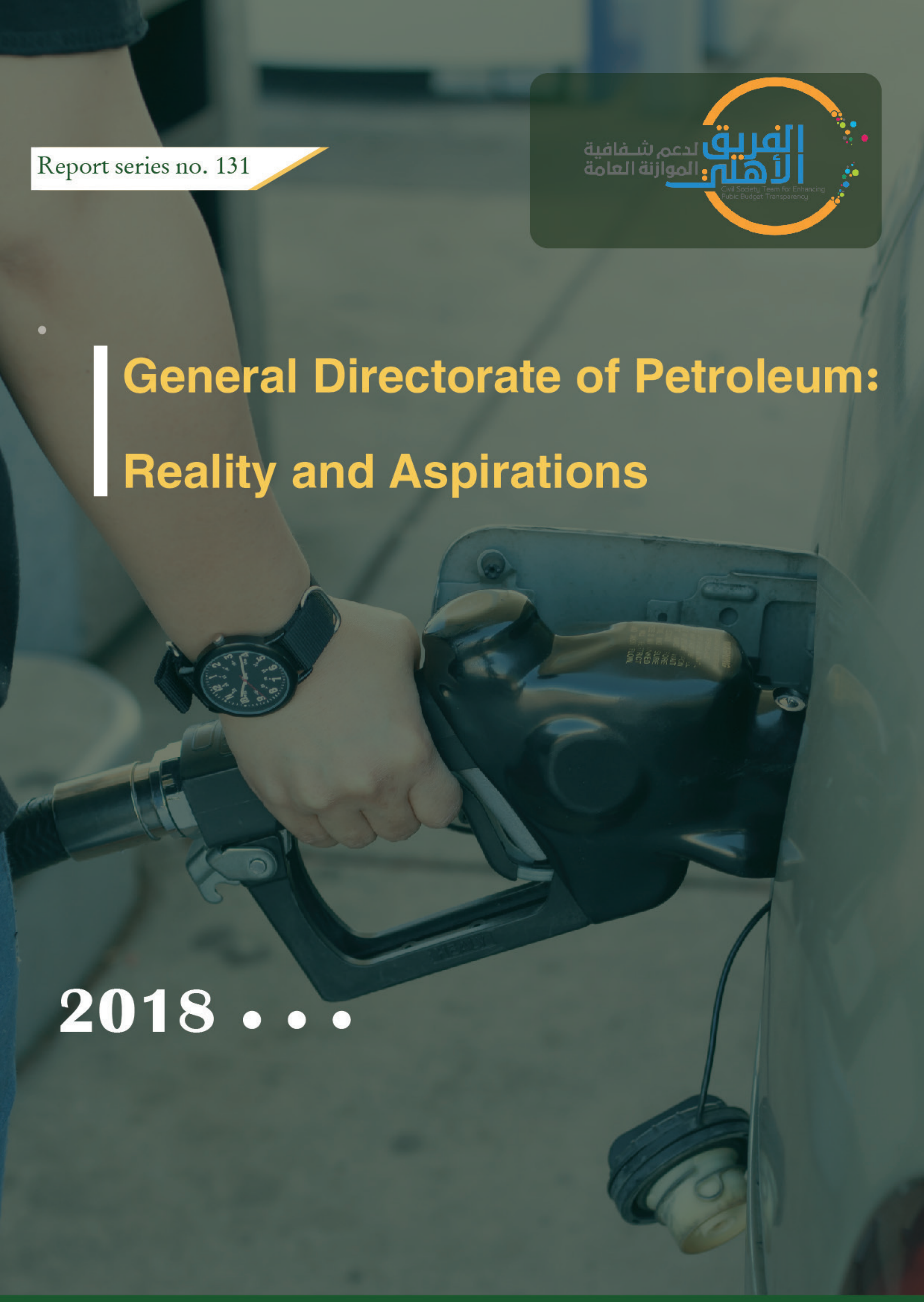

الفريق الأهلي لدعم شفافية الموازنة العامة
Civil Society Team for Enhancing Public Budget Transparency

Report series no. 131

General Directorate of Petroleum: Reality and Aspirations

2018

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AMAN Coalition expresses its deepest gratitude to:

Researcher Moayyad Afaneh, for preparing this report and to Dr. Azmi Shuaibi and AMAN's team for the report editing and review.

In case of citation, kindly refer to the report as such: Coalition for Integrity and Accountability (AMAN), 2017, General Directorate of Petroleum: Reality and Aspirations, Ramallah-Palestine

Introduction

Fuel is a key commodity for citizens due to its correlation to the production of commodities and services. Thus, fuel prices occupy public opinion while combustibles' taxes, Blu and VAT, represent a key source for the treasure of the State of Palestine. This income represents currently 258 million NIS[1], constituting 35% of the total tax clearance with Israel in 2017. The tax clearance, in turn, constitutes around 68% of the net public incomes[2].

Public treasure income from fuel tax amounted to (2,903,500,00 NIS[1]) in 2017 and is estimated to represent (3,049,000,000 NIS[2]) in 2018

General Directorate of Petroleum: Background:

The General Directorate of Petroleum (GDoP) was established on 8th October 1994 by Ministerial Council Resolution; it enjoyed an independent legal personality with its own budget and was affiliated directly to the President of the Palestinian National Authority. It was later annexed to the Ministry of Finance (MoF) on 10th February 2003 following a Ministerial Council resolution in the course of financial and administrative reform efforts. The reforms priorities focused on merging all incomes under a single treasure account.

GDoP was charged with the responsibility of regulating importation of oil and petrochemicals throughout PNA areas.

GDoP comprises several departments:

1. Warehouses:
2. Finance
3. Licensing and technical affairs
4. Monitoring and quality control
5. Procurement
6. Sales
7. Administrative affairs

GDoP also comprises district offices throughout Palestine to facilitate provision of services and operate

GDoP Goals and Tasks

GDoP endeavors to promote the oil and petrochemical sector through an effective and independent system that responds to current and increasing future needs of the Palestinian society through:

1. Securing local market needs in oil products and byproducts (gasoline, diesel, gas, cooking gas) and mineral oils and natural gas including through direct importation.

1 Accumulative financial monthly report for December 2017, published by Ministry of Finance and Planning on 24 January 2018.

2 Accumulative financial monthly report for December 2017, published by Ministry of Finance and Planning on 24 January 2018.

2. Prescribe legislation and regulations to regulate the sector.

3. Prescribe general safety and security terms and appropriate storage methods.

4. Set fuel prices on monthly basis.

5. Develop petrochemical, hydrocarbon and plastic industry for oil byproducts as consistent with future development plans, in coordination with other competent authorities.

6. Control the quality of oil byproducts

7. Secure a strategic supply of oil byproducts.

8. Develop petroleum wealth and maximize its use

GDoP also provides free-of-charge technical consultancies to gas stations' owners3.

Consistent with Ministerial Council Resolution (17) for the year 2008, Article (2) on licenses issued by GDoP, the Directorate shall perform the following mandate:

- Grant and renew the following licenses without prejudice to the special terms applicable to stakeholders:

a- License the establishment of gas stations;

b- License agencies;

c- Approve locations of liquidated gas storage and connections in residential and industrial establishments;

d- Permit licensing of oil tanks and gas bottles (cylinders) complying with Palestinian standards;

e- Monitor gas stations and licensed agencies to ensure compliance with these regulations4.

Purpose of the Report:

The report aims to shed light on the situation of the fuel/combustibles sector in Palestine and the General Directorate of Petroleum (GDoP), as the supervisory authority of the sector. It also displays issues related to the combustibles sector that are of interest to observers and the Palestinian public.

The report is a contribution by the Coalition for Integrity and Accountability (AMAN) to promote governance and upgrade the performance of GDoP to ensure optimal use of public resources and enhanced transparency and accountability, integrity.

3 Ministry of Finance and Planning, GDoP, http://www.pmof.ps/15

4 Ministerial Council Resolution No (17) for the Year 2008, Article (2) on the licensing regime of GDoP

Methodology:

The report adopted a descriptive analytical method, gathering relevant data through: review of the legal framework, review previous reports and studies on GDoP, especially reports by AMAN Coalition and MAS Institute, in addition to interviews with stakeholders and objective analysis of data to formulate findings and relevant recommendations to promote transparency, integrity and accountability in GDoP activities.

The report further addresses key issues of interest to citizens and observers and attempts to answer questions and queries raised by the public.

Chapter One

GDoP Legal and Regulatory Framework

Milestones:

- GDoP established via Ministerial Council Resolution on 6th October 1994;
- GDoP undertook its tasks throughout the Palestinian Territory following Ministerial Council Resolution on 12th November 1994 regarding redeployment of PNA in West Bank areas;
- Three years after its establishment and beginning of operation, the PLC – undertaking its legislative and oversight roles – approved the Draft Law on the General Directorate of Petroleum in the second reading on 25th November 1997 and submitted it to the PNA president for ratification on 7th December 1997. However, the draft law was not ratified and the GDoP continued running its business without any regulatory law[5] and remained affiliated to the office of the President.
- In 2003, the Ministerial Council issued a resolution transferring GDoP to the Ministry of Finance, and affiliated it to direct oversight of the Minister of Finance[6] (at the time Head of the Ministerial Council).
- The departments of the Ministry of finance dealt with GDoP as a (General Directorate) that is directly reporting to the Minister of Finance and Planning and it was shown on the Ministry's organizational structure in 2015[7].
- The Ministerial Council decided in 2018 to upgrade GDoP to Petroleum General Authority, that is directly affiliated to the Ministerial Council[9].[8]

Regulatory framework of the fuel (petroleum) sector:

It is important to establish a regulatory framework for the GDoP since it is the only entity entitled to import oil and oil byproducts to distribute later to gas stations nation-wide (West Bank and Gaza Strip). It is also the monitoring and licensing agency, which sets petroleum and petrochemical products prices. Following are the laws and regulations referring to the operations of GDoP:

5 Report entitled "General Directorate of Petroleum: Evaluation and Reform", Coalition for Integrity and Accountability, AMAN, 2009

6 Ministerial Council Resolution No (3) for the Year 2003 on the annexation of a number of agencies to the Ministry of Finance.

7 Ministry of Finance and Planning, GDoP, http://www.pmof.ps/15.

8 Interview with Director General of GDoP , Rabee' Hassan, with Al-Hayyat Al-Jadideh Newspaper, on 4 November 2018, http://www.alhaya.ps/ar_page.php?id=415c95cy68536668Y415c95c

9 Exclusive interview with Mr. Jaffal Jaffal, Director General of the State Administrative Audit and Control Bureau (SAACB), November 2018

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Basic Law

Articles (6), (60) and (69) of the Basic Law regulate the functions of state agencies, and prescribes the outline of their functioning. Article (6) states that The principle of the rule of law shall be the basis of government in Palestine. All governmental powers, agencies, institutions and individuals shall be subject to the law10.

The article clearly shows that the Basic Law left the charge of establishment and regulation of state agencies to regular statutes, which means that GDoP needs a law to regulate its functioning.

Article (6) of the Basic Law leaves the regulation of budgets and final accounts of state agencies to the statutes regulating their work; it provides that The law shall regulate the specific rules governing the preparation and approval of the general budget and disbursement of funds appropriated in it, as well as any attached budgets, developmental budgets, budgets for public institutions and services, and budgets for any project in which the government's investment comprises at least 50% of its capital11. However, until the completion of the present report, a vital agency like the GDoP lacked any regulatory statute to govern its operations.

Additionally, Article 96.9 mandates the Ministerial Council to establish and dissolve such authorities and agencies and to supervise them and appoint their presidents but also conditions such mandate with the existence of a regulatory statute governing their operations; the article prescribes that: The Ministerial Council shall exercise the following powers:

a) To establish or dissolve agencies, institutions, authorities and similar administrative units belonging to the executive apparatus of the government, provided that each shall be regulated by law.

b) To appoint heads of institutions and agencies mentioned above in subparagraph (a) and to supervise them in accordance with the provisions of the law[12].

Conclusion

The above shows that the Basic Law, the upper legislative rule in Palestine, referred the establishment of such authorities to the law in the first place.

Law No (12) for the Year 1995 on the Establishment of the Palestinian Energy Authority:

The said law does not mention any relation between GDoP and the Energy Authority, except in the definitions in Article (1) as it defines energy as "all forms of energy including electricity, oil and gas and their byproducts and renewable energy, etc." The definition considered oil, gas and their byproducts as part of the energy regulated by the Energy Authority[13].

The reason for non-subordination of GDoP to the Energy Authority is objection by the Minister of Finance to relinquish the affiliation of this General Directorate directly to his office, which secures him much liquidity.

Secondary Legislations (regulations/ instructions/ ministerial council resolutions)

Instructions by Minister of Labor (7) for the Year 2005 on protection of workers in gas and petroleum products related jobs

10 Amended Basic Law, Article (6)

11 Amended Basic Law, Article (60)

12 Amended Basic Law, Article (69)

13 Law No (12) for the year 1995 on the Establishment of the Palestinian Energy Authority.

The instructions comprise eight articles that regulate: necessary safety measures and precautions, training of workers, providing workers with special muzzles and respect safety measures in gas stations as well as obligations of workers in the gas and petroleum products business.

Ministerial Council Resolution (17) for the Year 2008 on licensing by GDoP:

Following the resolution affiliating the GDoP to the Ministry of Finance in 2003, which was made to regulate a few matters related to the General Directorate, most importantly the Mandate of the General Directorate of Petroleum[14].

Conclusion:

The General Directorate of Petroleum currently operates without any law regulating its activity, unlike other agencies, and without any legal reference to arbitrate among different stakeholders to identify its relation to other parties.

In an interview with the Director General of the Directorate General of Petroleum, Rabee' Hassan, he mentioned that a draft law was prepared to regulate GDoP operations by a committee formed upon resolution from the Ministerial Council. He added the committee comprised members from the Ministry of Justice, GDoP, Ministry of National Economy, Statute Administrative Audit and Control Bureau (SAACB) in addition to a representative of the Presidency Office and another from the Secretariat General of the Ministerial Council. The Committee produced a draft law and submitted it to the Ministerial Council. The draft law was also circulated to ministers for opinion and comments. It is expected to be enacted before end 2018 after ratification by President Mahmoud Abbas. It is expected to produce a new financial system and a new licensing system and to set the fees. GDoP Director General added that work is underway to institutionalize the operations of GDoP in partnership with all competent official agencies15.

Further, in an exclusive interview with Mr. Jaffal Jaffal, Director General of SAACB, he confirmed that the law regulating GDoP operations is currently under promulgation (at the time of preparation of the report) by the Ministerial Council. He added the law was approved in the first and second readings at the Ministerial Council as part of its promulgation16.

Agreements: Paris Economic Protocol

The Paris Economic Protocol (PEP) addressed petroleum in the Palestinian Territory in Article 12, which represents the legal basis for regulation of petroleum in Palestine. Clause (12) of the Paris Economic Protocol provides that:

14 Ministerial Council Resolution No (17) for the Year 2008, Article (2) on the licensing regime of GDoP.

15 Interview with Director General of GDoP , Rabee' Hassan, with Al-Hayyat Al-Jadideh Newspaper, on 4 November 2018, http://www.alhaya.ps/ar_page.php?id=415c-95cy68536668Y415c95c

16 Exclusive interview with Mr. Jaffal Jaffal, Director General of the State Administrative Audit and Control Bureau (SAACB), November 2018

1. Jordanian standards, as specified in the attached Appendix I, will be acceptable in importing petroleum products into the Areas, once they meet the average of the standards existing in the European Union countries, or the USA standards, which parameters have been set at the values prescribed for the geographical conditions of Israel, the Gaza Strip and the West Bank. Cases of petroleum products which do not meet these specifications will be referred to a joint experts' committee for a suitable solution. The committee may mutually decide to accept different standards for the importation of gasoline which meet the Jordanian standards even though, in some of their parameters, they do not meet the European Community or USA standards. The committee will give its decision within six months. Pending the committee's decision, and for not longer than six months of the signing of the Agreement, the Palestinian Authority may import to the Areas, gasoline for the Palestinian market in the Areas, according to the needs of this market, provided that:
2. this gasoline is marked in a distinctive color to differentiate it from the gasoline marketed in Israel; and
3. the Palestinian Authority will take all the necessary steps to ensure that this gasoline is not marketed in Israel.
4. The difference in the final price of gasoline to consumers in Israel and to consumers in the Areas, will not exceed 15% of the official final consumer price in Israel. The Palestinian Authority has the right to determine the prices of petroleum products, other than gasoline, for consumption in the Areas.
5. If Egyptian gasoline standards will comply with the conditions of sub-para (a) above, the importation of Egyptian gasoline will also be allowed17.

Conclusion:

The previous provision shows that the PNA, as per the PEP, is allowed to import petroleum from sources other than the Israeli supplier, which contradicts with the de facto situation with Israeli suppliers as the sole source of such importation. Still, this importation is restricted with compliance with the importation standards specified in the clause here above, including quality standards in EU countries and USA as well as Israeli standards. The clause further prescribes that Israel shall collect taxes and customs at crossing points. PEP also prescribes for an additional condition for the PNA: the consumer's price of gasoline in the Palestinian markets may not be exceed 15% of the final consumer's price in Israel.

Although there is no legal prohibition impeding the PNA from importing petroleum from other countries, such importation did not take place for the following reasons:

I. Prescription of terms related to standards, whereby standards of petroleum in Jordan and Egypt are not compatible with PNA standards in terms of carbon content, which is double the limits allowed in PEP. Most machinery and vehicles in Palestine comply with Israeli standards, which prescribe for low carbon content.

II. Other obstacles relate to collection of taxes and customs at crossing points controlled by Israel. PEP provides, in principle, for Israeli side approval of importation of combustibles but there is disagreement on payment of taxes and customs. This hindered the implementation of the agreement GDoP

17 Paris Economic Protocol, Clause 12

signed with Venezuela in 2014, which provided for supply of four cargos per year, which comply with the standards for a period of five years. Israel preconditioned the importation with collection of customs duties on cargos, which will pressure the Palestinian treasury and create a liquidity crisis. Payment would be collected immediately upon entry of goods and reimbursed upon the elapse of 60 days through the tax clearance process (Maqasah).

PEP also sets another limitation on the prices of gasoline, providing that the final consumer's price in the occupied Palestinian Territory shall not be lower by 15% of the final official consumer's price in Israel. It is paragraph 3 of the said protocol so that prices of gasoline in the Palestinian Territory do not affect the Israeli consumer[18].

With these terms, purchase from Israeli refineries becomes more cost-effective compared to other sources applying global prices. In case of availability of another source with subsidies to the importation to make it cost-effective and visible to citizens. But in absence of such subsidies, the price will not be lower than the price of gasoline imported from Israel since this importation is less risky compared to importation from abroad.

Conclusion:

The above explanation shows that impediments to the importation of petroleum from abroad are technical and practical and not legal.

Agreements with Israeli suppliers:

GDoP signed an agreement with Israeli Door Company since its establishment in 1994. The said agreement was then terminated in 2012 and replaced by an agreement with Paz Company and another with Pazan to supply the Palestinian areas with their needs in petroleum equally with Paz with the exception of gas, which is supplied by Paz through the Israeli Paz company and some limited quantities from Pazan Company in Haifa.

The Palestinian Ministerial council discussed in its 212th session on 17 July 2018, means to reform the combustibles sector and operations of GDoP, including launching a bid for supply under better conditions[19]. Regarding this point, Mr. Jaffal Jaffal, SAACB Director General, mentioned that is work is under way according to the Public Procurement Law and new bids are launched to purchase oil. The bidding and contracting process is duly underway[20].

18 Report entitled "General Directorate of Petroleum: Evaluation and Reform", Coalition for Integrity and Accountability, AMAN, 2009

19 Statement by Palestinian Ministerial Council in its (212th) session on 172018/7/

20 Exclusive interview with Jaffal Jaffal, SAACB Director General, November 2018

Chapter Two

Administrative and technical issues relating to the operation of GDoP

The Israeli supplier grants GDoP a repayment period or delay period of 35 days from the date of the procurement invoice, following which GDoP shall be subject to charges consistent with the interest rates published by Leumi Bank, with additional charges of 4% per year in case of delayed payment. On the other hand, GDoP grants Palestinian gas stations operating in Palestine a payment period of 25 days and issues sale invoices for every period. In case of no payment by supplied companies following the elapse of the grace delay prescribed in the agreements because of lack of liquidity, GDoP carries the financial burden, which mounts to staggering sums for purchases of petroleum and petroleum byproducts.

Deviation of annual purchase order:

GDoP submits a purchase order for the estimated amounts of fuels every month within a period that does not exceed 15 days of the beginning of every Gregorian month, with an allowable deviation in plus or minus of 7%. In case of exceeding the allowed deviation, GDoP is obliged to pay the monthly purchase price for the month in which the deviation took place or the following month, whichever is higher multiplied by the excess of the deviation. In case the deviation is lower, GDoP pays the difference in price between the price of the current month and the price of the next month multiplied by the sum exceeding the allowed deviation.

In case of excess in the monthly purchase order prepared by GDoP for several times with difficulty to assess the quantity required or predict the behavior of owners of gas stations, and it appears that the price of fuels will increase in the next month, the gas stations shall increase their purchase and store it to benefit from the price difference and make profit on the expense of GDoP, which shall pay for the difference in the price of the quantity in excess of the allowable deviation in the agreements with the Israeli suppliers. This results to a monthly additional financial burden of 1 million Shiekels.

Exceeding credit limit (obligo)

Israeli suppliers grant GDoP an authorized credit limit (obligo) of 400 million NIS and 390 Million NIS for each of Paz and Pazan respectively. Israeli companies prescribe that GDoP does not exceed such credit limit (obligo) without written consent from the supplier and compels it to a payment of an annual interest (charge) equal to the interest rate set in Bank Leumi with an additional 4% on the daily exceeding of the limit.

The credit limit has not been bypassed since the supplier stops supplies of fuels in such event; in other terms, the impediment is the supplier and not the financial controls of GDoP.

Difference in local gas to imported gas price

The agreements signed with the Israeli suppliers prescribe that Paz and Pazan share equally the supply of fuel to the PNA areas, with the exception of LGP Gas, which is purchased from Paz Gas through Paz Company. The Israeli Energy Ministry defines the share of the Palestinian market of local gas, or 30% of the total quantity allocated to Paz Gas, whichever is larger. Accordingly, the share of the Palestinian market of gas is priced as specified in the Agreement at the price of the local gas. The excess of Palestinian consumption is priced at the rate of imported gas. The accounts are managed as such until end of the month and issuance of monthly purchase invoices because Paz produces a purchase invoice once every ten days noting all of the gas consumed at local price since the price of imported gas is only computable at the end of the month so as to calculate the difference between imported and local gas. The difference is then borne by GDoP. In this case, GDoP shoulders the difference between the price of the imported and local gas, which comes in excess of the consumption of the Palestinian market of its share of the Israeli local gas.

Conclusion:

The above shows that GDoP operates under unjust purchase agreements, which entail numerous obligations upon it.

Calculation of consumer's final price of gasoline and diesel for Palestinian consumers:

Fuel prices in Israel depend on world oil price index. The average prices are calculated on monthly basis for the last five workdays of the previous month. The Palestinian side, represented by GDoP is provided with the price of the Israeli refinery and the logistic expenses as well as the refinery's profit margin, with deduction of the global gasoline evaporation rate (0.005), and addition of the blu and VAT taxes. Accordingly, GDoP calculates the prices of fuel in the beginning of every month after consultation with the Minister of Finance to disseminate to gas stations based on the financial subsidies the Ministry of Finance contributes to alleviate the price for Palestinian consumers.

The following table shows the method for calculating Palestinian final consumer's price in an actual month for gasoline and diesel:

Agency setting the price	Item	Gasoline 95	Diesel
Israeli Energy Ministry	Israeli oil refinery price	1.7437	1.8133
Agreement between the parties	Logistics cost	0.2010	0.0450
Ministry of Infrastructure	Blu Tax	3.0286	2.9017
Global standard	Evaporation 0.005	-0.0087	------
	Price before VAT	4.9646	4.7600
Paris Economic Protocol	VAT 17%	0.8440	0.8092
	GDoP global price	5.8086	5.5692
Deduct: cuts on the price of oil identified by the Petroleum Council at the end of every month for the next month at the rate of 0.6858 Nis/liter for gasoline and 0.19624 Nis/liter for diesel	Retail price	5.7400	5.3730

Add: profit margin for gas station (retailer), which is fixed and specified by GDoP in 2004 at the rate of 0.490 Nis/liter for gasoline and 0.3000 NIS/liter for diesel	Consumer's price	**6.2300**	**5.6730**

Source: List of prices sent monthly from suppliers

Based on the Palestinian final consumer's price components, the following is noticed:

- The price of one liter of fuel in the above example rose form 1.7 NIS and 1.8 NIS at Israeli oil refinery price, shouldering taxes (blu and VAT) to reach 6.23 NIS for gasoline and 5.67 NIS for diesel as purchase cost for GDoP, or PNA or GDoP price.
- Following consultations between the Director General of GDoP and the Minister of Finance and Planning, the price of fuel is set for Palestinian consumers and disseminated to all gas stations to comply with it. Upon determination of the final price, many factors are computed including the financial subsidies to be provided by GDoP every month, depending on the financial position of the government and liquidity available in the treasury.
- The above example shows that taxes on fuel (gasoline 95) reached (NIS 3.872) and for diesel, it was (NIS 3.711); that is 67% for gasoline and 69% for diesel on the purchase price. This means that the taxes are above three doubles of the purchase price of gasoline from the refinery, added to it the refinery's profit margin.
- In general, taxes represent an average of 68% of the total purchase price. This means that increase or decrease of fuel prices in Palestine does not match the price fluctuation in global markets for two reasons: (1) about 68% taxes (blu and VAT) enter into the calculation of price; and (2) US Dollar-NIS exchange rate eats up most of the cuts on oil prices and vice versa.

Conclusion

In light of this, tax revenues on oil are very high – as proportion of the final price and as regards the sale volume, which reaches 1 billion liters a year. Taxes are a main pillar of the PNA general revenues and represent around 1 billion NIS a year.

Mechanism of payment of fuel prices by retail gas stations:

GDoP applies three payment systems in resale of fuel supplied to retail gas stations:

Cash payment of gas stations:

The number of gas stations applying the cash payment system reached 96, mostly including the stations operating in the Gaza Strip.

Draft credit systems

Twenty-two stations apply this payment system with a grace repayment period of 25 days; the station's credit is covered through a bank draft.

No draft credit system

The number of stations using this system is 151 stations, which enjoy free-of-charge financing from GDoP for 25 days not to mention the risk of default and non-repayment by stations subject to this system.

In spite of a ministerial council resolution in 2013 regarding avoiding defaulted repayments and stoppage of deferred/credit payment by stations, the number of stations shifted to the cash payment system in the past five years remained as low as 96, representing 35% of the total number.

Mr. Jaffal Jaffal, Director General of SAACB reiterated the necessity to compel all stations to use a cash payment system to avoid risks of financial default for the PNA, which would entail repayment of bills to Israeli suppliers from the public treasury account. He added it is also important to stop selling on deferred payment21.

Position of Union of Gas Station Owners

In a special interview with Mr. Suheil Jaber, Head of the Gas Station Owners' Association, he objected the proposal of compelling gas stations to shift to cash payment. He explained that deferred payment within the grace period granted is a historical entitlement to gas station owners, which they will not revoke. He also explained that gas stations pay also on deferred payment to governmental and other official institutions. He warned that implementing this decision will lead to a significant default in the economy's cycle in PNA areas and will paralyze the economy.

When some stations default on payment of their dues, the public treasury affords large sums. He explained that the reason behind this problem is inadequate GDoP's licensing schemes, which result in licensing unqualified entities for nonprofessional considerations, which lack organization or to individuals close to security apparatuses. This entails problems and financial default. He added that gas stations cannot be deprived of such an entitlement because of defaulted payment on the side of unqualified stations to start with[22].

Palestinian market fuel needs and storage capacity:

GDoP imports the needs of the Palestinian market in the West Bank from the Israeli side and charges petroleum in its warehouses in Niilin and Tarqumia. Niilin has seven reservoirs of petroleum byproducts while Tarqumia has three fixed reservoirs to unload Israeli tanks into Palestinian tanks immediately[23].

Average fuel purchase of GDoP amounts to 80 million liters of fuel a month, including 25 million liters of gasoline, 55 million liters of diesel and 14,000 tons of cooking gas and other byproducts like kerosene and gas.

GDoP stores a quantity of fuel that would usually suffice the Palestinian needs for one day only. Fuel reserve in Niili is estimated at two million liters including one liter of gasoline and one million liter of diesel and 500 tons of gas, 50,000 liters of kerosene. The south reservoir absorbs 500 tons of gas stored in Farsh Al-hawa to the south of the West Bank.

As for the strategic reserve, it requires clear resolutions and policies as well as large reservoirs that can absorb the strategic reserve. The agreement with the Israelis could stipulate for transport of fuel from the Israeli side to the Palestinian side in pipes to reduce cost and help establish large reservoirs, as a first step toward strategic planning.

21 Exclusive Interview with Jaffal Jaffal, SAACB Director General, November 2018

22 Exclusive Interview with Shueil Jaber, Chairman of Union of Gas Stations Owners, November 2018

23 Qubajah, Ahmad (2013), Petroleum Byproducts and Gas Market in the West Bank, Palestinian Institute for Economic Research Policies (MAS), Palestine

Commenting on this, the GDoP Director General informed us that the PNA is working on the establishment of reservoirs in south, mid and north West Bank, including in the Jordan Valley area to store a strategic reserve sufficient to cover a certain period in case of any contingency. However, the key block to implementation is the Israeli occupation, which has not granted the approval to establish such reservoirs. Construction of fuel reservoirs requires Israeli approval, which albeit several letters to competent Israeli agencies, was always delayed or rejected. The occupation is thus deliberately – and quite expectedly - delaying the process[24].

Conclusion

GDoP is not practically capable of strategic storing of petroleum and its by products, which represents a threat to economic safety. Any attempts to establish reservoirs are obstructed – according to GDoP – by impediments laid by the Israeli occupation.

Fuel smuggling:

Fuel smuggling is destructive to sustainable development and weakens the structure, sovereignty and economic pillars of the state. It harms Palestinian citizens economically in addition to dumping the market with substandard products.

In spite of tremendous efforts by GDoP, in cooperation with the Palestinian Customs Police and Preventive Security and other institutions, smuggling continues to cost the Public Treasury huge losses, especially in Areas (c), which do not fall under PNA administrative or security control.

A report by the Palestinian News Agency "WAFA", observers working on combatting smuggling of fuel in Preventive Security and Customs Police noted that 20% of the fuel in the West Bank is smuggled, and concentrated mainly in areas that do not fall under Palestinian security control in Hebron Governorate. Furthermore, ad hoc sale of substandard smuggled fuel takes place under the protection of the occupation army, and open near its camps. Smugglers use inventive ways to smuggle fuel.

The preventive security, until publication of this report, conducted in this current year 300 raids seizing 154,000 liters of smuggled diesel and 34,000 liters of smuggled gasoline mainly fuel used in tar factories. The fuels were smuggled illegally without any regular tax invoices.

The preventive security also shut down 38 gas stations, including 9 licensed stations and other non-licensed unorganized ones. Over 55 persons were summoned for interrogation while 3,000 liters of oil set to mix with diesel were seized. Vehicles and tanks were also seized[25]

For instance, the Customs Police dealt with 40 cases of fuel smuggling, confiscating over 92,000 liters of fuel in 2017[26].

24 Interview with Director General of GDoP , Rabee' Hassan, with Al-Hayyat Al-Jadideh Newspaper, on 4 November 2018, http://www.alhaya.ps/ar_page.php?id=415c-95cy68536668Y415c95c

» 25Press report: smuggled counterfeited fuel kills our vehicles, Palestinian News Agency "WAFA" , 2017 http//:www.wafa.ps/ar_page.aspx?id=PsUVBPa807097013283aPsUVBP

26 Statement by the Directorate of Public Relations and Information, Customs Police, 2017, https://www.alwatanvoice.com/arabic/news/2018/02/10/1122794.html

The Director General of GDoP confirmed that "oil smuggling is wide spread. He added that it has to do with national sense. Selling counterfeit fuel severely damages vehicles of citizens and deprives the public treasury of important tax revenue." He added, "we do not have accurate statistics about the size of smuggling. We receive reports from preventive security and customs police, but not full statistics. It is clear that these fuels affect the market while GDoP has not yet conducted a thorough study to examine the situation[27].

He explained that smuggling is facilitated by lack of logistic and legal framework regulating the operations of security apparatuses coopering with GDoP to combat smuggling and counterfeiting of fuel. These causes include:

- Lack of effective action plans to combat smuggling and counterfeiting of fuel;
- Lack of tanks to transport fuel to handle it later in cases of smuggling.
- Insufficient reservoir/ storage area at GDoP reservoirs to keep the seized items.
- Lack of any mobile or fixed lab to test samples immediately after their seizure in a smuggling operation.
- Lack of nay deterrent procedures against smugglers at the Public Prosecution and Palestinian courts.
- Lack of any political coordination with the Israeli side to help in combatting smuggling in Area (c).

Conclusion:

Smuggling fuel is widespread n the Palestinian areas, especially in Area (c); it is dangerous and costs the public treasury millions of NIS not to mention its harmful socioeconomic and environmental impacts.

A report of the Palestinian News Agency "WAFA" shows that 20% of the fuel in the West Bank is smuggled. If we do the math, this means that tax revenues on "legitimate" fuel in a year is around 3 billion NIS, according to documented reports of the Ministry of Planning and Finance. This represents 80% of the total revenue, since 20% of the fuel is smuggled. Consequently, the public treasury loses around 750 million NIS a year[28].

27 Interview with Director General of GDoP , Rabee' Hassan, with Al-Hayyat Al-Jadideh Newspaper, on 4 November 2018, http://www.alhaya.ps/ar_page.php?id=415c95cy68536668Y415c95c

28 Estimates computed by research with a potential margin of error since data of inputs relied on estimates of security forces combatting smuggling and not on specific figures or rates.

Chapter Three

Transparency, Integrity and Accountability at GDoP

The context in which GDoP operates without a law regulating its activity resulted in absence of key principles of performance, compliance and transparency not to mention lack of oversight and accountability about its activities. This placed the Directorate in a controversial position and weakened its position vis-à-vis the parties that raise suspicions and accusations about its activity. These parties include those directly or indirectly involved in monitoring the fuel sector in the Palestinian Territory. GDoP was established in 1994 before it was affiliated to the Ministry of Finance in June 2003, and was not subjected to any regulatory legislation. This raised questions about its administration in general and finance in particular and made it liable to corruption – as testified by PLC and SAACB reports then. Many cases relevant to GDoP were submitted to the Anti-Corruption Court.

The Ministerial Council has not promulgated any internal regulations or oversight and internal control mechanisms tailored to GDoP particular character and administration to govern its relations with different fuel stakeholders. The situation remained unchanged in spite of numerous calls by local and international oversight agencies to devise a clear mechanism, appropriate reference and regulations that respect the principles of transparency and disclosure. These efforts include PLC attempts to issue a law to regulate GDoP activity to become the reference framework accepted by all party and the minimum requirement to promote the rule of law.

This year SAACB prepared a report on GDoP, which received the attention of the Ministerial Council. As an indicator of such interest, the Council decided to transform GDoP from being a Directorate of the Ministry of Finance to Petroleum Public Commission with financial and administrative legal personality and regulations detailing its revenues and expenses. The Commission shall be supervised by the Petroleum Council, which comprises a number of agencies including SAACB as an observer member29.

In addition, a regulatory law was drafted by the Ministerial Council was approved by first and second readings by the Ministerial Council to be duly ratified, and which – according to GDoP Director General – is expected to be promulgated in the near future[30].

GDoP is currently supervised by a Council established upon Ministerial Council Resolution, with membership of representatives of official relevant agencies. It is presided by the Minister of Finance while SAACB is an observer member. The council is vested with supervising the petroleum sector. It is active and has convened several times31.

SAACB also audits GDoP and prepared a detailed report on its activity. It is further member of the Petroleum Council, which enables it to have access to all the decisions and policies regulating GDoP.

There is a standing order complying with the Civil Service Law, since GDoP is a general directorate in the Ministry of Finance; it also has a procedural manual. However, stakeholders interviewed reported that it requires a special law to regulate its activity.

29 Exclusive interview with Jaffal Jaffal, SAACB Director General, November 2018

30 Interview with Director General of GDoP , Rabee' Hassan, with Al-Hayyat Al-Jadideh Newspaper, on 4 November 2018, http://www.alhaya.ps/ar_page.php?id=415c95cy68536668Y415c95c

31 Exclusive interview with Jaffal Jaffal, SAACB Director General, November 2018.

Conclusion

There is no law that regulates GDoP activity taking into account the nature of its work and commercial activities. This hinders the transparency, accountability and integrity system knowing that a draft GDoP law has been drafted, but has not been promulgated until the date of this report. Furthermore, the formation of the Petroleum Council to oversee GDoP with SAACB part of its membership may enhance control of its activities.

Controlling the relation between GDoP staff and other stakeholders and level of integrity:

Because of the lack of a law regulating GDoP activity and any special regulation to govern its work, it becomes a fertile environment for corruption, especially with influential external parties with interests that may be correlated to GDoP staff. These parties include gas stations and representatives of Israeli suppliers.

GDoP has only a general standing order under the Civil Service Law, since it is a directorate general affiliated to the Ministry of Finance. The civil service code of ethics also applies to its staff and they received relevant training. However, GDoP needs more tailored and rigorous procedures and follow up, especially with the sensitive issues that have huge financial impact including:

- GDoP is co-owner of a number of gas stations.
- Security forces own gas stations and this raises questions about their role in the administration of GDoP
- The type of agreements concluded with the Israeli suppliers
- Exceeding the delay for payment of purchase bills
- Deviation of annual purchase orders
- Exceeding the credit ceiling
- The difference between the price of local gas and imported gas
- Mechanisms of payment of duel prices by Palestinian gas stations
- Smuggling of fuel

Conclusion

In spite of the sensitive nature of the activity of GDoP and its diversified relations and potential for corruption, it lacks any integrity promotion procedures to immune its staff against corruption save the public service code of ethics. This latter does not suffice to promote integrity among staff.

Transparency in GDoP

Transparency ecosystem in GDoP is ambiguous. GDoP does not produce periodic monthly or annual administrative and financial report and does not manage a website to post its statements and reports. The data available on fuel tax income appears on an item in the reports of the Ministry of Finance and Planning. Mr. Jaffal Jaffal, Director General of SAACB, explained that work is underway to transform GDoP into an independent commission financially and administratively (the Petroleum Commission) as per Ministerial Council resolution. Periodic and clear reports will be published32.

Conclusion

The problem relevant to transparency is non-publication of periodic report and lack of website.

Accountability in GDoP

Historically, GDoP lacked any organized accountability system because of the absence of any law regulating its activity and setting its terms of reference.

According to the Basic Law, GDoP reports periodically to the Ministerial Council.

Impediments Facing GDoP

- Lack of a law regulating GDoP activity

Promulgation of a special law will help reformulate the relations among influential and influenced parties in the fuel sector. It will set forth legal and legislative mechanisms for administrative and financial oversight.

- Defaulted debts

GDoP endures accumulated defaulted debts in its dealings with gas stations operating in Palestine. It exerted efforts through the judicial and executive power to collect the debts and put an end to the deferred and delayed repayment by gas station owners.

- Technical financial deficit

GDoP goes through technical financial deficit when it cannot repay its short-term obligations because of reduced cash flow. Further, it cannot collect the defaulted debts not to mention its high operational cost. On the other hand, it is difficult to receive allocations from the Ministry of Finance or other sources to cover its needs.

- Accounting systems used

It is difficult for GDoP to use the accounting systems of the Ministry of Finance for its activities and transaction because the nature of its activity is commercial while other Ministry departments manage not-for-profit government transactions and services. The accounting software in the Ministry is designed for government accounts and is not compatible with GDoP's activity. It is necessary to use an adapted accounting software that is linked to the automated input systems currently used in Nilin reservoir.

- Control and financial systems applied in ministries are incompatible with GDoP

The financial controller refers to the financial system used for ministries and government institutions. But since GDoP transactions are commercial, this system is not fit and actually makes the task of the financial controller and other oversight agencies more difficult. It is therefore necessary to create an internal control department to audit GDoP activity to replace the current financial controllers who apply the same financial

32 Exclusive interview with Jaffal Jaffal, SAACB Director General, November 2018.

system designed for ministries and government institutions. Additionally, GDoP must be subjected to SAACB auditing as concordant to its activity.

- Limited human resources

GDoP relies on a small number of staff distributed in its 12 district offices. A key problem that impedes full performance of GDoP duties is non-matching of staff qualifications with the needs of GDoP.

- Smuggling

Fuel smuggling costs the public treasury a huge amount of money and compromises sustainable development not to mention its negative effect on the state's prestige and social justice.

- Gas stations' owners' union

Gas stations' owners' union works within a strong interest group, which employs it to serve its interest. This hinders implementation of government plans to reform and direct the Palestinian fuel sector.

- Insufficient reserve

The current storage capacity of GDoP reservoir does not even cover one day of local consumption. The border crossings in Niilin and Tarqumia cannot be considered as reservoirs. They serve only as discharging stations. This situation jeopardizes the stability of GDoP since any delay in supply represents a real threat to the security, and economic and political stability of the Palestinians

Recommendations

- Promulgate GDoP law to set the terms of reference of its activities and define its correlations to other stakeholders.
- Prepare tailored standing order with a comprehensive procedural manual to be applied by GDoP staff and administration in the performance of their tasks in a manner to promote integrity and immune staff against all forms of corruption.
- Promote good governance of the fuel sector through separation of relevant agencies whereby the government will draft public policies while the regulatory body grants licenses and follows up and monitors activities and operations. The Petroleum Council overseeing GDoP activities must be independent so that it can prepare public policies and monitor compliance therewith by all concerned parties. Implementing agencies, like companies, would then handle distribution of fuel.
- It is paramount to revisit purchase agreements with suppliers to draft fairer provisions to enable GDoP fulfill its terms under better conditions. Relevant public procurement laws must be observed.
- Apply cash payment system to deals with gas stations to immune GDoP against cash flow deficiency and prevent defaulted credit by gas stations. This arrangement would save the public treasury the interests it pays to its suppliers.
- Apply rigorous terms to licensing of gas stations and provide for a system that prevents cases of defaulted payment by gas stations since deferred repayment costs GDoP and the public treasury large amounts of money.
- Prepare for the establishment of GDoP-owned reservoir with sufficient capacity to preserve a strategic reserve that helps enhance economic security. Fuel needs to be piped from the Israeli refinery to Palestinian reservoirs to reduce losses and smuggling.
- Carry out an economic feasibility study on importation of fuel from abroad.
- Exert more effort to repay the debt of defaulted gas stations and investigate the reasons behind this accumulated debt in addition to prosecuting the hands behind such accumulation that cost the public treasury hundreds of millions of NIS.
- Adopt an accounting system and software tailored to the commercial activity of GDoP.
- Provide qualified human resources at the different tiers of responsibility in GDoP.
- Launch a comprehensive action plan to combat smuggling of fuel and prescribe the necessary logistic procedures to regulate the work of security apparatuses entrusted with combatting smuggling and counterfeiting of fuel. This may include establishment of mobile labs and provision of necessary tanks to seize smuggled goods and provide for sufficient space for storage of seized fuel.
- Provide for a mechanism to mitigate the monopoly of the Union of Gas Sations Owners, which impedes any reform undertaken by GDoP.

Recommendations to promote transparency, integrity and accountability

- Comply with the principles of transparency and publish periodic reports as well as agreements and other relevant GDoP documents.
- Develop a GDoP website to publish its statements to the public in addition to posting its financial and administrative reports.

- Subject the appointment of the President of GDoP to the criteria and values of integrity based on fair competition.
- Prepare a code of ethics for GDoP staff, which includes:
    1- Instructions to sanction conflict of interests.
    2- Instructions to regulate acceptance of gifts by GDoP staff.
- Oversee the financial statements of all GDoP staff
- Prescribe the mandate of the Petroleum Council and its standing order and terms of reference in addition to publishing its decisions.
- Establish an internal control system to audit GDoP activity that is tailored to its commercial business.
- SAACB needs to list GDoP under its annual auditing plan, providing for an oversight consistent with the particular activity and sensitivity of GDoP and publish accessible periodic reports on its activity.

References

Palestinian Basic Law

- Law No (12) for the year 1995 on the Establishment of the Palestinian Energy Authority.
- Paris Economic Protocol
- Ministerial Council Resolution No (3) for the Year 2003 on the annexation of a number of agencies to the Ministry of Finance.
- Ministerial Council Resolution No (17) for the Year 2008, Article (2) on the licensing regime of GDoP.
- Accumulative financial monthly report for December 2017, published by Ministry of Finance and Planning on 24 January 2018.
- Accumulative financial monthly report for September 2018, published by Ministry of Finance and Planning on 22 October 2018.
- Report entitled "General Directorate of Petroleum: Evaluation and Reform", Coalition for Integrity and Accountability, AMAN, 2009.
- Qubajah, Ahmad (2013), Petroleum Byproducts and Gas Market in the West Bank, Palestinian Institute for Economic Research Policies (MAS), Palestine

Exclusive Interviews:

- Exclusive interview with Mr. Jaffal Jaffal, Director General of the State Administrative Audit and Control Bureau (SAACB), November 2018
- Exclusive interview with Mr. Shueil Jaber, Chairman of the Union of Gas Stations Owners, November 2018

Media Reports

- Interview with Director General of GDoP , Rabee' Hassan, with Al-Hayyat Al-Jadideh Newspaper, on 4 November 2018, http://www.alhaya.ps/ar_page.php?id=415c95cy68536668Y415c95c
- «Press report: smuggled counterfeited fuel kills our vehicles, Palestinian News Agency "WAFA" , 2017 http://www.wafa.ps/ar_page.aspx?id=PsUVBPa807097013283aPsUVBP

- Statement by the Directorate of Public Relations and Information, Customs Police, 2017

https://www.alwatanvoice.com/arabic/news/2018/02/10/1122794.html

Websites

- Ministry of Finance and Planning, GDoP, http://www.pmof.ps/15.

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Transparency Palestine

Coalition for Integrity and Accountability (AMAN) – Palestinian chapter of Transparency International since 2006. Established in 2000 by a group of civil organizations active in the areas of democracy, good governance and human rights with the objective of creating a "corruption-free Palestinian community". AMAN endeavors to mobilize the community in all sectors to combat corruption and produce and transfer knowledge on corruption and anti-corruption at national regional and international levels.

AMAN acts as a watchdog over the national integrity system with focus on community participation and active role of civil society organizations and the media in monitoring and accountability and in the creation of an immune environment and in contributing to discloses crimes of corruption and limiting any spread thereof.

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